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IN THE

Supreme Court of the United States

October Term, 1979
No. 79-558

PRESBYTERY OF RIVERSIDE, THE PALM SPRINGS ADMINISTRATIVE COMMISSION FOR THE PRESBYTERY OF RIVERSIDE,

Petitioners,

vs.

COMMUNITY CHURCH OF PALM SPRINGS,

Respondent.

Respondent's Brief in Opposition to the Petition for Writ of Certiorari, to the Court of Appeal of the State of California, Fourth Appellate District, Division Two.

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Petitioners,

vs.

COMMUNITY CHURCH OF PALM SPRINGS,

Respondent.

Respondent's Brief in Opposition to the Petition for Writ of Certiorari, to the Court of Appeal of the State of California, Fourth Appellate District, Division Two.

The COMMUNITY CHURCH OF PALM SPRINGS, a California corporation, the Respondent herein, submits the following Brief in Opposition to the Petition for Writ of Certiorari, to the Court of Appeal of the State of California, Fourth Appellate District, Division Two, heretofore filed by the Presbytery of Riverside and Palm Springs Administrative Commission for the Presbytery of Riverside.

Statement of Facts.

The Respondent Community Church of Palm Springs hereby incorporates by reference the Statement of the Case and the Statement of Facts contained in the opinion of the California Court of Appeal, District

Four, Division Two, found in the Petition for Writ of Certiorari filed herein in Appendix A thereto, at pages A2 to A30, inclusive.

Summary of Argument.

In the Petition for Writ of Certiorari filed herein, the Petitioners allege two grounds for this Court's issuance of the writ. These are as follows:

I

The Decision Below is Inconsistent With the First Amendment Principles as Interpreted by this Court in *Jones v. Wolf*.

II

The Facts of this Case Illustrate How the Application of Neutral Principles of Law Can Result in Violations of the First Amendment and This Court should Re-examine *Jones v. Wolf* in the Light of These Facts.

The argument of Respondent Community Church of Palm Springs, will be divided into three sections as follows:

I

The Decision of the Court of Appeal Herein Is Consistent With the Interpretation of the First Amendment Made by This Court in the Case of Jones vs. Wolf.

II

The Application of Neutral Principles of Law to the Facts of This Case Is Consistent With the Principles of the First Amendment. The Application of the First Amendment Principles by This Court in Jones vs. Wolf Is Correct, and Need Not Be Reviewed.

III

The Trial Court Found That Petitioners Are Estopped to Assert Any Claim to Respondent's Assets. The Judgment of the Trial Court Herein May Therefore Be Affirmed Upon an Independent State Ground.

ARGUMENT.

I

The Decision of the Court of Appeal Herein Is Consistent With the Interpretation of the First Amendment Made by This Court in the Case of Jones vs. Wolf.

The initial ground asserted by the Petitioners herein for the issuance by this Court of its Writ of Certiorari is that the opinion of the Court of Appeal below is inconsistent with the interpretation of the First Amendment to the Constitution recently made by this Court in the matter of *Jones v. Wolf*, ... U.S. ....., 99 S.Ct. 3020, 61 L.Ed.2d 775 (1979). The opinion of this Court in *Jones v. Wolf* states that the Constitution of the Presbyterian Church in the United States, the general church there involved, does not contain any language of trust over the assets of local church corporations in favor of the general church. Petitioners outline the organizational structure of the United Presbyterian Church in the United States of America (UPCUSA) (which is substantially similar, if not identical, to that of the Presbyterian Church in the United States) and cite certain provisions of the Book of Order of the UPCUSA which, Petitioners argue, establish that the assets of local church corporations affiliated with the UPCUSA are held in trust for the general church. Petitioner's initial argument appears to reduce itself to the assertion that, as a matter of law, the local church corporations affiliated with the UPCUSA hold their assets in trust for the general church, by virtue of the provisions of the Book of Order of the UPCUSA, and that the civil courts are obligated to so determine.

Admixed with the Petitioners' initial argument (and with the Petitioners' second assertion in their petition) is the implied argument that the dispute between Petitioners and Respondent is a "religious" or "ecclesiastical" controversy, and not a property rights question. Before addressing the Petitioners' first expressed contention, the Respondent wishes to respond to this argument.

The opinion of the Court of Appeal correctly notes that the issues the trial court was called upon to determine in this matter were purely property disputes. The Petitioners' complaint sought recovery of and Respondent's ejectment from possession of certain real and personal property, title to which is vested in Respondent; sought to have Petitioners' title to these assets quieted; and sought monetary damages for Respondent's use of these properties since 1968. Respondent's cross-complaints sought to have its title to these assets quieted (See Petition for Writ of Certiorari, Appendix A, p. A31). Petitioners did not assert that they have been prevented from establishing a Presbyterian congregation at Palm Springs, California, or providing Presbyterian religious services to members of Respondent's congregation, or others, who wish to attend such services. Respondent does not question the right of Petitioner Presbytery to suspend Respondent as the Palm Springs Session of the UPCUSA and to establish another Session. The Respondent's right to withdraw from the UPCUSA is not in question. See Petition for Writ of Certiorari, Appendix A, pp. A17-A18. Thus, Respondent submits that Petitioners' attempts to characterize the dispute herein as "religious" or "ecclesiastical" are incorrect, and their reliance on cases such as *Serbian Orthodox Diocese v. Milivojevich*, 426 U.S. 696, 96 S.Ct. 2372, 49 L.Ed.2d 151 (1976);

Kedroff v. St. Nicholas Cathedral, 344 U.S. 94, 73 S.Ct. 143, 97 L.Ed. 120 (1952) and *Kreshik v. St. Nicholas Cathedral*, 363 U.S. 190, 80 S.Ct. 1037, 4 L.Ed.2d 1140 (1960), which involved "religious" or "ecclesiastical" disputes, is misplaced.

Returning to the substance of Petitioners' initial contention, this Court has repeatedly held that the civil courts have the authority to resolve disputes involving the ownership of church property. *Jones v. Wolf, supra*, ... U.S. ....., 99 S.Ct. 3020, 61 L.Ed.2d 775 (1979); *Maryland, etc. Churches of God v. Church of God at Sharpsburg*, 396 U.S. 367, 90 S.Ct. 499, 24 L.Ed.2d 582 (1970); *Presbyterian Church v. Hull Church*, 393 U.S. 440, 89 S.Ct. 601, 21 L.Ed.2d 658 (1969). See also *Serbian Orthodox Diocese v. Milivojevich*, 426 U.S. 696, 96 S.Ct. 2372, 49 L.Ed.2d 151 (1976).

In the instant case, the Petitioners have based their claim to title and possession of Respondent's real and personal property on the theory that Respondent holds this property in trust for Petitioners' benefit. This Court has repeatedly held that the several states may apply "neutral" principles of law to the resolution of claims of this type. See *Jones v. Wolf*, ... U.S. ....., 99 S.Ct. 3020, 61 L.Ed.2d 775 (1979); *Maryland, etc. Churches of God v. Church of God at Sharpsburg*, 396 U.S. 367, 90 S.Ct. 499, 24 L.Ed. 582 (1970); *Presbyterian Church v. Hull Church*, 393 U.S. 440, 89 S.Ct. 601, 21 L.Ed.2d 658. See also, *Stone v. Stone*, 460 F.2d 64 (1970), cert. den. 409 U.S. 1000, 93 S.Ct. 315, 34 L.Ed.2d 261, rehear. den. 409 U.S. 1118, 93 S.Ct. 896, 34 L.Ed.2d 703. The judgment of the trial court and the opinion of the Court of Appeal are based on the application of these principles.

As the opinion of the Court of Appeal herein correctly notes, in California, the question whether parties in their dealing have created a trust is one of fact, to be determined largely by ascertaining the intent of the parties (*Petherbridge v. Prudential Savings and Loan Association*, 79 Cal.App.3d 509, 516-17; *Abrams v. Crocker-Citizens National Bank*, 41 Cal.App.3d 55, 59-61; *cf. Rosicrucian Fellow v. Rosicrucian, etc. Church*, 39 Cal.2d 133-138) measured by an objective standard (*Petherbridge v. Prudential Savings and Loan Association, supra*, 79 Cal.App.3d at p. 516, footnote 2; *McGhee v. Bank of America*, 60 Cal.App.3d 442, 448; Restatement of Trusts 2d, §23, com. a, p. 66). See Petition for Writ of Certiorari, Appendix A, p. A27. As the opinion of the Court of Appeal further notes, where, as here, the trial court's finding of fact is based on conflicting evidence, or upon evidence giving rise to conflicting inferences, the substantial evidence rule applies. *Estate of Bristol*, 23 Cal.2d 221, 223; *Petherbridge v. Prudential Savings and Loan Association, supra*, 79 Cal.App.3d 509, 517. See Petition for Writ of Certiorari, Appendix A, p. A27.

The California substantial evidence rule was stated by the California Supreme Court in *Estate of Bristol*, 23 Cal.2d 221, 223, as follows:

> "The rule as to our province is: 'In reviewing the evidence . . . all conflicts must be resolved in favor of the respondent, and all legitimate and reasonable inferences indulged in to uphold the verdict, if possible. It is an elementary . . . principle of law, that when a verdict is attacked as being unsupported, the power of the appellate court begins and ends with a determination as to whether there is any *substantial* evidence, contradicted or uncontradicted, which will support the conclusion reached by the jury. When two or more inferences can be reasonably deduced from the facts, the reviewing court is without power to substitute its deductions for those of the trial court.' (Italics added.) (*Crawford v. Southern Pacific Co.* (1935) 3 Cal. 2d 427, 429 [45 P. 2d 183]). The rule quoted is as applicable in reviewing the findings of a judge as it is when considering a jury's verdict."

This Court adheres to the same standard in reviewing the decisions of lower courts (*Dooley v. Pease*, 180 U.S. 126, 21 S.Ct. 329, 45 L.Ed. 457; *Stanley v. Board of Supervisors*, 121 U.S. 535, 7 S.Ct. 1234, 30 L.Ed. 1000.

In this case, the trial court was presented with conflicting evidence on the question of whether the Respondent holds its assets in trust for either the Petitioners or the UPCUSA. In their Petition for Writ of Certiorari herein, the Petitioners base their argument for the existence of a trust upon various provisions of the Book of Order of the UPCUSA, quoted in the Petition. These provisions grant to Petitioner Presbytery limited control over the Respondent's assets so long as Respondent is affiliated with the UPCUSA. However, Petitioners do not question that Respondent is controlled by its membership, and may terminate its affiliation with the UPCUSA. (Indeed, the 181st General Assembly of the UPCUSA acknowledged the efficacy of the Respondent's termination of the affiliation, when it declined to rule on the merits of Respondent's petition to withdraw from the UPCUSA, on the ground that the petition had been filed by an independent body which had renounced the jurisdiction of the

general church.) (See, Petition for Writ of Certiorari, Appendix A, p. A10; see, also, Appendix A to this Brief, page A1.) Further, it is acknowledged that the Book of Order of the UPCUSA does not now and has not ever contained any express provision that local member churches hold their property in trust for the general church. More significantly, all parties agreed that in 1930, when the General Assembly of the UPCUSA considered an amendment to the Book of Order to require that the articles of incorporation of local member churches declare that their property is held in trust for the general church, the amendment was defeated. See Petition for Writ of Certiorari, Appendix A, pages A28-A29. Respondent asserts that in light of the refusal by the General Assembly of the UPCUSA to adopt a provision for the Book of Order establishing an express trust in the assets of local member churches for benefit of the general church, an interpretation of other provisions of that Book to establish a trust, express or implied, would have been impermissible.

Additional facts presented to the trial court support its finding that Respondent did not hold its assets in trust for Petitioner Presbytery or the UPCUSA. Title to these assets was at one time held by the Presbytery. When the Presbytery conveyed title to these assets to Respondent, it did so in absolute terms without reservation. See, Petition for Writ of Certiorari, Appendix A, p. A28. Moreover, the trial court found on the basis of uncontradicted testimony that the Respondent had no notice or knowledge that Petitioner Presbytery or the UPCUSA claimed any trust interest in Respondent's assets, that at no time prior to the dispute between Respondent and the UPCUSA was any

communication directed to Respondent giving notice that the UPCUSA claimed ownership of, or a trust interest in, Respondent's assets and that neither Respondent nor any of its representatives ever made any agreement or commitment, written or otherwise, that Respondent held title to its assets in trust for the UPCUSA or any of its components. From these facts, the trial court was free to infer that, in fact, prior to the eruption of the dispute between Respondent and the UPCUSA, neither Respondent nor Petitioners nor any other component of the general church believed that Respondent held its assets in trust for the UPCUSA, and that no such trust ever existed.

Moreover, as the opinion of the Court of Appeal herein correctly notes, even the provisions of the Book of Order upon which Petitioners place their reliance give rise to conflicting inferences, since if the local church corporations affiliated with the UPCUSA do hold their assets in trust for the general church, the specific grants of authority expressed in the Book of Order would be unnecessary. See Petition for Writ of Certiorari, Appendix A, p. A29. Respondent thus submits that the trial court finding that Respondent does not hold its assets in trust for the Petitioners or the UPCUSA is supported by substantial evidence, and is hence binding in this review.

In the first section of the Petition for Writ of Certiorari, the Petitioners place stress upon provisions of Respondent's Articles of Incorporation as they read during the time that Respondent was affiliated with the UPCUSA. There is no question that Respondent's Articles of Incorporation did reflect its association with the UPCUSA. However, as the trial court noted, no provision of the Articles ever provided that Respond-

ent held its assets in trust for the UPCUSA or any of its components. And, if the constitution of the UPCUSA does not establish such a trust, the acknowledgment of an affiliation with the church in the Articles of Incorporation cannot serve to create a trust relationship. Moreover, it was within Respondent's powers at all times to amend its Articles of Incorporation without the consent of either the UPCUSA or any of its constituent parts. See California Corporations Code §9305, former California Corporations Code §3600, *et seq.*, now California Corporations Code §§900-910.

As an alternative to their assertion that, as a matter of law, the Book of Order of the UPCUSA creates a trust over the assets of the local church corporations affiliated with the general church, Petitioners appear to argue that they are entitled to Respondent's assets under the provisions of Section 62.11 of the Book of Order, which states, in pertinent part, as follows:

> "Whenever hereafter a particular church is formally dissolved by the presbytery, or has become extinct by reason of the dispersal of its members, the abandonment of its work, or other cause, such property as it may have, both real and personal, shall be held, used and applied for such uses, purposes, and trusts as the presbytery may direct, limit and appoint, or such property may be sold or disposed of as the presbytery may direct, in conformity with the Constitution of The United Presbyterian Church in the United States of America."

The Petitioners' assertion in this regard is that the UPCUSA has determined that the Respondent has been formally dissolved or become extinct, or has abandoned its work within the meaning of the above-quoted section,

that Petitioners are therefore entitled to succeed to Respondent's assets, and that the civil courts are bound by this determination.

As previously discussed, the civil courts are free to interpret the language of the Book of Order of the UPCUSA when that language purports to affect property rights. Further, Petitioners' argument fails to acknowledge that Respondent is a creature of the law of the State of California and may be dissolved and extinguished only in accordance with that law. Respondent is not dependent upon or subject to the UPCUSA or Petitioners for its corporate existence. The trial court determined that as a factual matter, Respondent has not been dissolved or become otherwise extinct. Additionally, the trial court determined that Respondent is pursuing its work at Palm Springs, California, although that work may no longer be the work of UPCUSA. As matters of fact, these findings are uncontested, and are thus binding on appeal. Thus, Petitioners' contention in this regard is without merit.

In summary, the trial court in the present case, like that in the matter of *Jones v. Wolf, supra,* found that neither the actions of either Respondent nor the components of the UPCUSA, nor any provisions of the Book of Order of that church, gave rise to a trust in favor of the general church, in the assets of Respondent corporation, or compel the transfer of Respondent's assets to Petitioners. That finding of fact is supported by substantial evidence, and is therefore binding on appeal. The application of "neutral principles of law", to this finding of fact has not been questioned in this appeal, and is entirely consistent with the opinion of this Court in *Jones v. Wolf, supra.* The Respondent Community Church of Palm Springs

therefore respectfully submits that the first grounds set forth by Petitioners in their Petition for Writ of Certiorari herein is without merit.

II

The Application of Neutral Principles of Law to the Facts of This Case Is Consistent With the Principles of the First Amendment. The Application of the First Amendment Principles by This Court in Jones vs. Wolf Is Correct, and Need Not Be Reviewed.

The second ground asserted by the Petitioners herein for the issuance by this Court of its Writ of Certiorari is that the application of neutral principles of law to the facts of this case contravenes the principles of the First Amendment, even though such application may be consistent with the rules of *Jones v. Wolf*. The thrust of Petitioners' argument in this regard appears to be that the application of neutral principles of law requires a civil court to examine the constitutional structure of an hierarchical church to determine the distribution of property rights among the components thereof, and that the court may interpret the property rights relationships among those components in a different manner than they are interpreted by some of those components.

As previously noted, this Court has repeatedly held that civil courts have the authority to resolve disputes involving the ownership of church property. *Jones v. Wolf, supra,* ..... U.S. ....., 99 S.Ct. 3020, 61 L.Ed. 2d 775 (1979); *Maryland, etc. Churches of God v. Church of God at Sharpsburg, supra,* 396 U.S. 367, 90 S.Ct. 499, 24 L.Ed.2d 582 (1970); *Presbyterian Church v. Hull Church, supra,* 393 U.S. 440, 89 S.Ct.

601, 21 L.Ed.2d 658 (1969). The Court has further held that in determining such disputes, the civil courts are free to adopt any one of several analytical approaches. The civil courts may resolve such disputes through adoption of the approach suggested in *Watson v. Jones,* 13 Wall. 679, 20 L.Ed. 666 (1872) which entails deference to the will of the majority within a church of congregational structure and to the highest ruling authority in a church of hierarchical structure. *Maryland, etc. Churches of God v. Church of God at Sharpsburg, supra,* 396 U.S. 367, 90 S.Ct. 499, 24 L.Ed.2d 582. Alternatively, the civil courts may apply "neutral principles of law" for the resolution of church property rights to disputes. *Jones v. Wolf,* ..... U.S. ....., *supra,* 99 S.Ct. 3020, 61 L.Ed.2d 775 (1979); *Maryland, etc. Churches of God v. Church of God at Sharpsburg, supra.* Finally, the civil courts may be bound by statutes enacted by the various state legislatures for the resolution of such disputes. *Maryland, etc. Churches of God v. Churches of God at Sharpsburg, supra.* All that is required of the civil courts in fashioning and applying their analytical approaches is that they refrain from resolving the disputes based on their interpretation of religious doctrine or practice. *Jones v. Wolf, supra,* ..... U.S. ....., 99 S.Ct. 3020, 61 L.Ed.2d 775 (1979); *Serbian Orthodox Diocese v. Milivojevich, supra,* 426 U.S. 696, 96 S.Ct. 2372, 49 L.Ed.2d 151 (1976); *Maryland, etc. Churches of God at Sharpsburg, supra,* 396 U.S. 367, 90 S.Ct. 499, 24 L.Ed.2d 582 (1970).

Petitioners appear to assert in their petition that as a matter of constitutional law, the civil courts must adopt the analytical approach suggested in *Watson v. Jones, supra.* As previously noted, the opinion in

Watson v. Jones suggests that the civil courts first determine whether a church whose property is in dispute is congregational or hierarchical in structure. Where the church is determined to be hierarchical, the civil court should defer to the determination of the dispute made by the highest judicatory of that church. The principal rationale asserted by Petitioners for the adoption of the *Watson v. Jones* approach as a rule of law is that to allow the civil courts to adopt a different standard will require the UPCUSA to take measures to clarify the distribution of property rights among its component parts.

Initially, this Court has repeatedly stated that, consistent with the requirements of the First and Fourteenth Amendments, civil courts may compel religious organizations to structure relationships involving church property so as not to require the civil courts to resolve ecclesiastical questions. *Jones v. Wolf, supra,* ..... U.S. ....., 99 S.Ct. 3020, 61 L.Ed.2d 775, 785; *Presbyterian Church v. Hull Church, supra,* 393 U.S. 440, 449, 89 S.Ct. 601, 21 L.Ed.2d 658. Implicit in these rulings is the concept that the Constitution does not bar civil courts from requiring that religious organizations structure their property rights relationships in the same manner, to be interpreted by the same rules, as non-religious entities. Nor does reason suggest why a different rule should be adopted. Religious organizations in this country are purely voluntary in nature. No one may be compelled to adhere to any particular religious philosophy, nor any religious philosophy at all. Religious organizations within this country are thus composed of ordinary citizens who have chosen to follow a particular set of religious beliefs. It would make no sense to require these people to structure their personal property interests in one manner, but allow, if not indeed require, them to structure the proprietary interests of the religious organizations to which they adhere, in another manner.

Respondent suggests that the present matter illustrates the difficulties which adoption of the *Watson v. Jones* approach could pose to a civil court. Initially, as the General Assembly of the UPCUSA recognized the Respondent's withdrawal from the general church, there is some question whether the rule of *Watson v. Jones* has any application to the present case. *Watson v. Jones* suggested a method for resolving property rights disputes among components of an hierarchical church or among the factions of a congregational church. However, all parties to this litigation concede that Respondent has withdrawn from the UPCUSA; the efficacy of the withdrawal was recognized by the 181st General Assembly of the UPCUSA. Thus, the present litigation does not involve components of an hierarchical church, but rather an hierarchical church on one hand and an independent non-profit corporation on the other. Under these circumstances, it is not clear that the *Watson v. Jones* analysis has any application.

Further, even if the *Watson v. Jones* approach is applicable to this case, it is unclear that the highest judicatory of the UPCUSA has made a ruling on the merits of this case, or, if it has, what that ruling held. As the opinion of the Court of Appeal herein correctly notes, the 180th General Assembly of the UPCUSA did not pass on the merits of the dispute between Petitioners and Respondent. That General Assembly found Respondent's appeal and the actions of the lower judicatories of the church to have been

proper. The judgment of that General Assembly was denominated as preliminary only. Respondent was specifically authorized to petition the 181st General Assembly for withdrawal from the Church, with retention of its property, should it choose to do so. See Petition for Writ of Certiorari, Appendix A, pages A9-A10; pages A52-A53. However, when Respondent asserted its petition to the 181st General Assembly, the petition was rejected, not on its merits, but because it had been filed by an independent body which had renounced the jurisdiction of the UPCUSA. See Petition for Writ of Certiorari, Appendix A, page A10. See, also, Appendix A to this Brief, page A1. It is not unreasonable to suggest that the action of the 181st General Assembly should be interpreted as acquiescence in the Respondent's course of action.

Finally, even assuming that it can be determined that the rule of *Watson v. Jones* has application to the facts of this case and that the action of the 181st General Assembly constitutes a ruling on the merits adverse to Respondent's position, there still remains the question of whether the UPCUSA is an "hierarchical" church within the meaning of *Watson*. Clearly, the UPCUSA is hierarchical for religious and ecclesiastical purposes; any person or group wishing membership in the UPCUSA must abide by the determinations of the ruling bodies of that church. Respondent suggests, however, that the fact that a church may be hierarchical for the religious and ecclesiastical purposes does not necessarily mean that the hierachical bodies have claims upon the assets of the church members. As previously noted, neither a person nor a congregation can be compelled to be a member of the UPCUSA, and members of the general church are always free

to terminate their association with it. The failure of the Book of Order to contain provisions creating express trusts in the assets of member church corporations for benefit of the general church suggests that a local church wishing to withdraw from the general church may do so and retain its assets. Indeed, as suggested above, the fact that in 1930 the General Assembly of the UPCUSA defeated an effort to amend the Book of Order to require the creation of express trusts by local churches for benefit of the general church, would appear to require this interpretation.

Respondent suggests that the above questions illustrate reasons why the civil courts of the several states ought to be free to adopt an analytical approach other than that suggested in *Watson v. Jones* to the resolution of disputes involving church property. Respondent further suggests that it should not constitute a great hardship on the UPCUSA to structure its property rights so that, applying neutral principles of law, a civil court will determine that a local church corporation holds its assets for benefit of the general church. Petitioners suggest that the membership of the church generally acknowledges that local church corporations hold their assets in trust for benefit of the general church. If this is indeed the case, Respondent suggests that the local member churches will be willing to execute written acknowledgments to that effect, or, perhaps, to even convey title to their assets to the hierarchical components of the general church. In the alternative, the General Assembly of the Church may amend the Book of Order to include a provision similar to that contained in the Book of Discipline of the United Methodist Church. See *Jones v. Wolf, supra,* ..... U.S. ....., 99 S.Ct. 3220, 61 L.Ed.2d 775,

783, footnote 2. If, as Respondent suggests, the general membership of the UPCUSA does not acknowledge that local church corporations hold their assets in trust for the benefit of the general church, Petitioners' position in this litigation must be viewed as an effort by the hierarchy of the UPCUSA to impose upon the church membership by judicial *fiat* a property rights arrangement which the membership would not voluntarily adopt. For this Court to accept Petitioners' position under such circumstances and impose their plan of property rights distribution upon the general membership of the UPCUSA would appear to violate the establishment clause of the First Amendment.

But, Petitioners argue, if the several states are free to adopt varying approaches to the resolution of church property disputes, a general hierarchical church of nationwide scope may be faced with the task of complying with the varying sets of criteria in different states, in its efforts to establish its property rights position. Therefore, Petitioners suggest this Court should fashion a federal rule of property law, in the form suggested by *Watson v. Jones,* to be applied across the nation in the resolution of church property disputes. Petitioners castigate the opinion of this Court in *Jones v. Wolf, supra,* for transferring to the several states the power to determine church property disputes, an area of the law uniquely within the jurisdiction of this Court.

Initially, Respondent notes that the necessity of conforming its property rights arrangements to the laws of the several states is a problem faced by any interstate corporation. The UPCUSA is hardly unique in this regard.

Further, Respondent asserts that Petitioners' argument does not suggest why, if a uniform standard for the

resolution of church property disputes ought to be imposed on the states, that standard ought not to be the "neutral principles of law" approach approved in *Jones v. Wolf, supra.* As the property law of the several states is based on English common law, it is reasonable to expect that such a rule would result in a comparatively uniform nationwide approach to the resolution of church property disputes.

However, Respondent is not prepared to concede that it is wrong for this Court to allow the several states to adopt varying approaches to the resolution of church property disputes. Initially, Respondent asserts that the basic jurisdiction for the resolution of property rights disputes, whether or not they involve religious entities, rests with the states. The only interest this Court has in the resolution of such disputes is to assure that the states settle such disputes in accord with the requirements of the First and Fourteenth Amendments. And those amendments on their face provide only what governments cannot do; they do not purport to establish any rule of substantive law relative to church property disputes or to confer on this Court any peculiar jurisdiction to resolve such disputes. Thus, Respondent asserts that the position taken by this Court in *Presbyterian Church v. Hull Church, supra; Maryland, etc. Churches of God v. Church of God at Sharpsburg, supra,* and *Jones v. Wolf, supra,* is correct and ought not to be changed.

Finally, the Petitioners suggest that the application of the rule of *Jones v. Wolf* to the UPCUSA will result in the ability of the majority of each local congregation to ignore or defy the rules promulgated by the church hierarchy. As previously noted, religious affiliations in this country are purely voluntary in na-

ture. Thus, any individual, or group of individuals who disagree with a position taken by a religious organization are always free to withdraw from their affiliation with that organization. If the UPCUSA is concerned with establishing its property interests in the face of the withdrawal of individuals or blocs of members, the opinion of this Court in *Jones v. Wolf, supra,* has spelled out what the general church should do to protect its position. "The primary advantages of the neutral principles approach are that it is completely secular in operation and yet flexible enough to accommodate all forms of religious organizations and policy. The method relies exclusively on objective, well established concepts of trust and property law familiar to lawyers and judges. It thereby promises to free civil courts completely from entanglement in questions of religious doctrine, polity and practice. Furthermore, the neutral principles analysis shares the peculiar genius of private-law systems in general—flexibility in ordering private rights and obligations to reflect the intentions of the parties. Through appropriate reversionary clauses and trust provisions, religious societies can specify what is to happen to church property in the event of a particular contingency, or what religious body will determine the ownership in the event of a schism or doctrinal controversy. In this manner, a religious organization can ensure that a dispute over the ownership of church property will be resolved in accord with the desire of the members." *Jones v. Wolf, supra,* 61 L.Ed.2d at pp. 784-785. Thus, Respondent

suggests that Petitioners fear that the application of neutral principles of law to property disputes among components of the UPCUSA will result in majority rule at the congregational level only if that is the will of the membership of the general church. If the membership of the general church wishes to vest the church hierarchy with control over the assets of local church corporations, it is free to do so, in the language customarily associated with such grants of authority. The civil courts will honor such arrangements. See for example, *Carnes v. Smith,* 236 Ga. 30, 222 S.E.2d 322 (1976), cert. den. 429 U.S. 868, 97 S.Ct. 180, 50 L.Ed.2d 148 (1976).

In summary, Respondent Community Church of Palm Springs submits that both the application of neutral principles of law to the facts of the instant case and the opinion of this Court in *Jones v. Wolf, supra,* are consistent with the principles of the First Amendment, as interpreted by this Court in a series of cases over a period of years. Further, Respondent suggests that Petitioners have failed to assert any persuasive reasons why this Court should depart from the approach to the reconciliation of church property disputes with the principles of the First Amendment, as developed in *Presbyterian Church v. Hull Church, supra,* through *Maryland, etc. Churches of God v. Church of God at Sharpsburg, supra,* and most recently reaffirmed in *Jones v. Wolf, supra.* Respondent therefore submits that the second ground set forth by the Petitioners in their Petition for Writ of Certiorari is without merit.

III

The Trial Court Found That Petitioners Are Estopped to Assert Any Claim to Respondent's Assets. The Judgment of the Trial Court Herein May Therefore Be Affirmed Upon an Independent State Ground.

The trial court in the instant matter concluded that the Petitioners are estopped to assert any claim to the assets of Respondent Community Church [See Appendix A to this Brief, pp. 19-20]. While the opinion of the Court of Appeal herein did not find it necessary to review the trial court's judgment in this regard [See Petition for Writ of Certiorari, Appendix A, p. A4], the trial court's determination in this regard forms an alternate basis for its judgment herein. The legal correctness of the trial court's finding of estoppel is not challenged in the petition herein. This Court follows the principle of confining its review of the judgments of state courts to the federal constitutional questions decided by those courts. *Waters-Pierce Oil Company v. Texas,* 212 U.S. 86, 29 S.Ct. 220, 53 L.Ed. 417; *Walker v. Taylor,* 5 How. (U.S.) 64, 12 L.Ed. 52. Thus, the Court has repreatedly ruled that it will not review judgments of state courts which rest upon adequate and independent state grounds. *Herb v. Pitcairn,* 324 U.S. 117, 65 S.Ct. 459, 89 L.Ed. 789, Supp. Op., 325 U.S. 77, 65 S.Ct. 954, 89 L.Ed. 1483, reh. den. 325 U.S. 893, 65 S.Ct. 1188, 89 L.Ed. 2005; *Holley v. Lawrence,* 317 U.S. 518, 63 S.Ct. 394, 87 L.Ed. 434, reh. den. 318 U.S. 798, 63 S.Ct. 531, 87 L.Ed. 1162; *McGoldrick v. Gulf Oil Corp.,* 309 U.S. 2, 60 S.Ct. 536, 84 L.Ed. 536, reh. den. 309 U.S. 692, 60 S.Ct. 512, 84 L.Ed. 1034; *Kalb v. Feuterstein,* 308 U.S. 433, 60 S.Ct. 343, 84

L.Ed. 370; *Bell Telephone v. Van Dyke,* 296 U.S. 533, 56 S.Ct. 93, 80 L.Ed. 379; *Fox Film Corp. v. Muller,* 296 U.S. 207, 56 S.Ct. 183, 80 L.Ed. 158; *Enterprise Irrigation Dist. v. Farmer's Mutual Canal Co.,* 243 U.S. 157, 37 S.Ct. 318, 61 L.Ed. 644; *Neblett v. Carpenter,* 305 U.S. 297, 59 S.Ct. 170, 83 L.Ed. 182, reh. den. 305 U.S. 675, 59 S.Ct. 335, 83 L.Ed. 437; *Loftus v. Illinois,* 334 U.S. 804, 68 S.Ct. 1212, 92 L.Ed. 1737. The Respondent suggests that this Court should deny the Petition for Writ of Certiorari herein, in conformance with this principle.

Conclusion.

For the reasons set forth above, the Respondent Community Church of Palm Springs, a California corporation, respectfully submits that the Petition for Writ of Certiorari heretofore filed with this Court by the Presbytery of Riverside and the Administrative Commission for the Presbytery of Riverside should be denied.

Respectfully submitted,

JOHN C. SHEVLIN,
A Member of
SCHLECHT & MCCULLOUGH,
A Professional Corporation,

Attorneys for Community Church of Palm Springs.

APPENDIX A.

REPORT OF THE STANDING COMMITTEE ON BILLS AND OVERTURES.

Petition 3: From the Community Church of Palm Springs (Independent), 284 So. Cahuilla Road, Palm Springs, California dated April 24, 1969, requesting that a commission be established by the General Assembly to negotiate a property settlement between it and the Presbytery of Riverside.

The Bills and Overtures Committee has examined the petition and papers related to the case. The petition contains the following sentence: "Under the continued threat of administrative discipline of the Pastor and Session by the officers of Presbytery, our church was forced to declare its independence of the jurisdiction of the denomination which was effective June, 1968."

We find that this petition is filed by an independent body which has renounced the jurisdiction of The United Presbyterian Church in the United States of America, therefore it is not filed by a proper petitioner and cannot be considered by this body. See Book of Discipline, Chapter XII, B. 8 [92.08] The Bills and Overtures Committee *recommends* that it not be considered.

Members of the Committee from the Synod of Southern California did not vote on the case and the chairman absented himself from the chair.

This is to certify that this is a true copy of action which was adopted by the 181st General Assembly in Petition 3, taken in San Antonio, Texas, on Tuesday, May 20, 1969.

/s/ William P. Thompson
William P. Thompson, Stated Clerk

Findings of Fact and Conclusions of Law.

Superior Court of the State of California, for the County of Riverside.

Presbytery of Riverside, et al., Plaintiffs, vs. James H. Blackstone, et al., Defendants. Community Church of Palm Springs, Cross-complainant, vs. Presbytery of Riverside, Cross-defendants. Administrative Commission of the Community Church of Palm Springs, Plaintiffs, vs. James H. Blackstone, Jr., et al., Defendants. No. Indio 13680 (Master File), No. Indio 12302.

Filed: April 21, 1977.

The above entitled case came on reularly for trial on January 22, 1976 in Department 8 of the above entitled court sitting in Riverside, California, the Honorable JOHN H. HEWS, Judge Presiding, without a jury. The trial continued in session through Thursday, January 29, 1976. Plaintiffs and Cross-defendants appeared by JAMES D. WARD of the firm of THOMPSON & COLEGATE as their attorneys; Defendants and Cross-complainants appeared by JAMES M. SCHLECHT of the firm of SCHLECHT & McCULLOUGH, as their attorneys.

Said cause having been tried, evidence both oral and documentary having been introduced, the court having reviewed facts stipulated to by the parties herein, said cause having been submitted for decision, and the court having rendered its Notice of Intended Decision on May 25, 1976, the court now makes the following Findings of Fact and Conclusions of Law;

FINDINGS OF FACT:

1. Plaintiff PRESBYTERY OF RIVERSIDE is a California Non-profit Corporation and Plaintiff PRESBYTERY OF RIVERSIDE also operates as an unin-

corporated Religious Association. (Collectively referred to as "PRESBYTERY OF RIVERSIDE").

2. The PRESBYTERY OF RIVERSIDE, an unincorporated association, has direction and control of the corporate Presbytery. Such unincorporated association also has supervisory jurisdiction and control to the extent provided in its Constitution over all the churches of the PRESBYTERIAN CHURCH in the counties of San Bernardino, Riverside and most of Imperial County.

3. Defendant and Cross-complainant, COMMUNITY CHURCH OF PALM SPRINGS, (COMMUNITY CHURCH) is a corporation organized and existing under the Non-profit Corporation laws of the State of California.

4. THE ADMINISTRATIVE COMMISSION OF THE COMMUNITY CHURCH OF PALM SPRINGS (PRESBYTERIAN) of Palm Springs, California, an unincorporated Ecclesiastical Association, although not originally named in the complaint on file herein as INDIO NO. 13680, became a Plaintiff and Cross-defendant pursuant to stipulation of counsel.

5. THE UNITED PRESBYTERIAN CHURCH IN THE UNITED STATES OF AMERICA (herein called the PRESBYTERIAN CHURCH), a Christian denomination, is organized under the general rules, regulations and system of government of the PRESBYTERIAN CHURCH. These rules, regulations and the system of government are set forth in that portion of the PRESBYTERIAN CHURCH Constitution designated "The Book of Order". Under this Constitution, Rules and Ecclesiastical Law, the church government is the Presbyterian form of government with various com-

ponents thereof constituting one united church, connectional in nature, and the units are integral parts of the church and are not independent or congregational. The Presbyterian system consists of an ascending body of Ecclesiastical Tribunals called Judicatories.

Each local church is governed by a body called the Session. The Session consists of the pastor or pastors and the ruling elders elected by the congregation. In turn, the several local churches within specified geographical areas are organized into what are called Presbyteries.

A Presbytery consists of all the ministers in the geographical area and at least one ruling elder from each individual church. Each Presbytery has directed, immediate supervision of all the churches within its area, and by virtue of its jurisdiction has among other powers, the power to organize and dissolve churches, remove pastors from their pulpits, and suspend the powers of a Session. When the powers of a Session are suspended the Presbytery also has the power and authority to elect an Administrative Commission, which by virtue of such election, assumes control over the life of the church. The Session of each individual church being in control of the affairs of the church has jurisdiction and control over the Board of Trustees and the members thereof.

The next higher tribunal or judicatory in the Presbyterian system above the Presbyteries are the Synods which consist of more than one Presbytery, usually including an entire state, and usually consisting of three or more Presbyteries.

The Synod of Southern California is the Ecclesiastical Tribunal or judicatory which includes the PRESBYTERY OF RIVERSIDE and exercises ecclesiastical control over seven Presbyteries in Southern California

and the State of Hawaii. Above all of these, and the highest judicatory in the Presbyterian Church, is the General Assembly, the commissioners of which are elected annually by the various Presbyteries. The General Assembly in the Presbyterian system has combined legislative and judicial functions as well as administrative functions to its various arms and agencies.

6. Legal title to the following described real and personal property is at present vested in the Defendant/cross-complainant COMMUNITY CHURCH:

A. *REAL PROPERTY*

PARCEL 1:

Lots 16, 17 18 and 19 in Block 16 of Palm Springs, as shown by Map on file in Book 9, page 432 of Maps in the office of the County Recorder, San Diego County; together with the Easterly 8 feet of Orange Avenue, as shown on said Map, adjacent to Lots 18 and 19 thereof, as vacated by Board of Supervisors of Riverside County, California, by Order recorded March 27, 1926 in Book 665, page 532 of Deeds.

PARCEL 2:

Lot 9 in Block 7 and the Southerly rectangular 25 feet of Lot 8 in Block 7 of Palm Springs, as shown by Map on file in Book 9, page 432 of Maps, Records of San Diego County, California.

PARCEL 3:

The North 50 feet of Lots 13, 14, and 15 and all of Lots 16, 17, 18, 19, 20 and 21, Block 7, Palm Springs as per Map recorded in Book 9, page 432 of Maps, Records of San Diego County, California.

PARCEL 4:

PARCEL A:

The South 35 feet of Lot Seven (7) and the North 25 feet of Lot Eight (8), in Block Seven (7) of Palm Springs, San Diego County Records, as per Map recorded in Book 9, page 432 of Maps, in the office of the County Recorder of San Diego County, California.

PARCEL B:

The Westerly eight feet of Orange Street as vacated by Order of the Board of Supervisors of Riverside County Recorded March 27, 1926 in Book 665, page 532 of Deeds lying South of the Easterly prolongation of the North line of the South 35 feet of Lot 7 and North of the Easterly prolongation of the South line of the North 25 feet of Lot 8.

PARCEL 5:

PARCEL A:

Lot 6 and the Northerly 15 feet of Lot 7 in Block 7 of Palm Springs, as shown by Map on file in Book 9, page 432 of Maps, Records of San Diego County, California.

PARCEL B:

The Westerly 8 feet of Orange Street, as vacated by Order of the Board of Supervisors of Riverside County Recorded March 27, 1926 in Book 665, page 532 of Deeds, Records of Riverside County, California, lying South of the Easterly prolongation of the Northerly line of Lot 6 in Block 7 of Palm Springs, as shown by Map on file in Book 9, page 432 of Maps, Records of San Diego County, California; and lying North of the Easterly

prolongation of the Southerly line of the Northerly 15 feet of Lot 7 in Block 7 of said Palm Springs.

PARCEL 6:

Lots 10, 11 and 12 in Block 7 in Palm Springs, as shown by Map on file in Book 9, page 432 of Maps, Records of San Diego County, California.

PARCEL 7:

The South 100 feet of Lots 13, 14 and 15, Block 7, Palm Springs, as per Map recorded in Book 9, Page 432 of Maps, Records of San Diego County, California.

B. *PERSONAL PROPERTY:*

All furniture, furnishings, books of worship, hymnals, account books, bank accounts, money and other personal property of every kind, nature and description located upon, or within the improvements located upon the real property described above whether such personal property was in or upon said real property on May 28, 1968 or has been added to, acquired or created subsequent to such date including all money, securities, bequests, gifts or accounts deposited with any and all financial institutions vested in or under the control of the COMMUNITY CHURCH and whether in being on May 28, 1968 or on the date of entry of judgment herein.

7. The defendant COMMUNITY CHURCH OF PALM SPRINGS, a California Non-profit Corporation, was incorporated in 1948 by members of an unincorporated association which had maintained in the City of Palm Springs a church known as the COMMUNITY CHURCH OF PALM SPRINGS for a number of years

prior to 1917. In 1917 the unincorporated association became affiliated with the Presbyterian denomination.

8. The unincorporated association took the name of "PALM SPRINGS PRESBYTERIAN CHURCH" in 1917 when it affiliated with the Presbyterian Church. Thereafter, very early in its development, the association discontinued the use of the name of PRESBYTERIAN and became known as THE COMMUNITY CHURCH OF PALM SPRINGS or COMMUNITY CHURCH OF PALM SPRINGS (Presbyterian). For many years, the COMMUNITY CHURCH was the only protestant church in the community of Palm Springs. From 1917 until 1967 the pastors of the COMMUNITY CHURCH were placed in the pulpit by the Judicatories of The United Presbyterian Church in the United States of America. During this period the Session of the COMMUNITY CHURCH and the pastors regularly participated in the activities of the Presbytery. Members of the Session, upon being admitted to membership in the Session, took an oath of office pledging adherence to the doctrine and discipline of the Presbyterian denomination. The Session from time to time referred to the Presbytery matters regarding real property, including the purchase, sale and mortgaging of same.

9. After 1917 and to the present time, only on a rare occasion did any of the publications and other printed material of the COMMUNITY CHURCH make any reference to affiliation with the PRESBYTERIAN denomination. A substantial majority of the written communication printed and circulated by the COMMUNITY CHURCH described itself as inter-denominational and non-denominational in character, open to the members of all Protestant faiths. The COMMUNITY CHURCH on the occasions of its 35th, 40th and 50th anniversaries published and disseminated materials referring to the history of the church and on each occasion, reference was made to the affiliation of the church with the Presbyterian denomination.

10. The original church property of the COMMUNITY CHURCH was deeded to the church in 1918. The grantors gave the property to the named grantees in trust for the PRESBYTERY OF RIVERSIDE. In 1931 said grantors re-deeded the property to the PRESBYTERY OF RIVERSIDE, now a corporation, upon the conditon that should the land and buildings be used for other than religious purposes or if the PRESBYTERY OF RIVERSIDE or other Protestant denomination did not support and maintain said church and the work therein, said land and buildings would revert to the grantors.

In 1935, the original church property, which had been in the possession of and continuously used by the local unincorporated association for many years, was sold. The sale of the property was authorized by the Session and the Trustees of the COMMUNITY CHURCH. The proceeds of the sale were used to acquire Lot 16, 17, 18 and 19 of Block 16, City of Palm Springs, described in Finding No. 6 above and to construct thereon church improvements. Such proceeds were disbursed through the architect and general contractor under the direction of the local COMMUNITY CHURCH. Title to this property was conveyed directly to the PRESBYTERY OF RIVERSIDE, a corporation. This conveyance was made to the Presbytery on or about June 1, 1935, at which time the COMMUNITY CHURCH had not been incorporated.

11. At the request of the COMMUNITY CHURCH, after said church had been incorporated, Plaintiff PRESBYTERY conveyed said real property to the COMMUNITY CHURCH on or about December 15, 1959. Such conveyance was made in fee simple absolute with no restrictions, conditions or reservations relating to any trust provision, express or implied.

12. At the time of incorporation in 1948, the COMMUNITY CHURCH had the corporate name COMMUNITY CHURCH OF PALM SPRINGS (PRESBYTERIAN) and its Articles of Incorporation cited adherence to the doctrine and discipline of the PRESBYTERIAN CHURCH. However, in 1968 at the time of withdrawal, (see Findings No. 28 and 29) the Board of Trustees of such Corporation, sitting jointly with the Session of the local church, amended both its Articles of Incorporation and its By-Laws to remove the word "PRESBYTERIAN" from the corporate name and declared its intention to no longer adhere to the doctrine and discipline of the PRESBYTERIAN CHURCH. Such amendment to the Articles of Incorporation did not, however, alter or amend the purpose for which the corporation was originally formed as set forth in Article IV of the original Articles of Incorporation. Said Article IV provides as follows:

> "That the purposes for which this corporation is formed shall be the establishment and maintenance of a place or places for worship and instruction, and for the dissemination and spreading of the Christian Doctrine among the people of the world, and that this corporation does not contemplate pecuniary gain or profit to the members thereof; to acquire and hold the real and personal property belonging to, or occupied by or claimed

> by said unincorporated association, and to acquire by gift, deed, devise, or bequest property of every kind and any kind whatsoever."

13. Record title to the real and personal property described above has at all times since 1959 been vested in the COMMUNITY CHURCH.

14. At no time have either the Defendant COMMUNITY CHURCH, or its representatives, ever made a commitment or agreement in writing, or otherwise, that title to its properties would be held in trust for the Presbyterian denomination or any division thereof.

15. At no time was the COMMUNITY CHURCH required to convey legal title to any of its property in issue in this matter to the PRESBYTERY OF RIVERSIDE and no provision of the Constitution of the Presbyterian denomination has at any time required that the properties of local churches be held by its Presbyteries, or any other body representing the denomination, other than its local churches.

16. The COMMUNITY CHURCH, since its inception, has invited to membership persons from all Protestant denominations without any requirement of termination of membership in any other church or demonination, and has held itself out as being an interdenominational Community Church. Persons who have joined or attended the church who were of Presbyterian background were frequently outnumbered by persons who were members of other denominations. At times the membership of Presbyterian background was less than one-third of the total membership. Many who affiliated with the COMMUNITY CHURCH did so only on a seasonal basis. For a period of approximately ten years prior to 1966, each new member of the COM-

MUNITY CHURCH was given a Request for Membership form which stated on its fact that the COMMUNITY CHURCH was affiliated with the Presbyterian denomination.

17. At all times material to this litigation Plaintiffs were aware of the fact that the COMMUNITY CHURCH was so representing itself to the community.

18. No complaint of the course of conduct described in Finding No. 16 above was ever directed to the COMMUNITY CHURCH by representatives of the Plaintiff Presbytery.

19. Until recent years, and at least since the year 1928, the COMMUNITY CHURCH conducted an annual fund raising campaign within the Palm Springs community to raise money for its operating budget by donations from local residents. Many of these donations were made by persons who were not in any way connected with the church. These campaigns for funds were made strictly upon the basis that such donations were of a community wide benefit. Many people of different religious faiths were approached for donations to help in the maintenance of a non-denominational community church.

20. The COMMUNITY CHURCH conducted two major capital fund-raising drives to construct major facilities during the periods generally of 1957 through 1960 and 1961 through 1963. Such campaigns for funds were again conducted on a community wide basis and those soliciting funds on behalf of the COMMUNITY CHURCH represented to those being solicited that the COMMUNITY CHURCH was an inter-denominational and non-denominational community Protestant church.

21. Many members, officers, and trustees of the Defendant COMMUNITY CHURCH would not have solicited membership in the local church, solicited funds for its operating budget and building fund drives, and some would not have participated in other church activities, if they had known that the PRESBYTERY and the PRESBYTERIAN CHURCH claimed an implied trust interest in the COMMUNITY CHURCH properties.

22. With the exception of a small amount of money received from the Plaintiff PRESBYTERY OF RIVERSIDE early in its history, all funds used to purchase and improve properties of the COMMUNITY CHURCH came from its members or non-member individuals who resided and/or visited in the desert area of Riverside County and not from or through efforts of the Plaintiffs. All of the real and personal property described in Finding No. 6 above was acquired with money provided by members or friends of the COMMUNITY CHURCH.

23. Although prior to 1968 the COMMUNITY CHURCH was affiliated with the PRESBYTERIAN CHURCH, many of its members were unaware of this and joined the COMMUNITY CHURCH and actively participated in its functions believing in good faith that they were still members of the various faiths to which they previously belonged.

24. In and prior to the year 1967, disputes arose between the COMMUNITY CHURCH and the Plain-

tiffs and the PRESBYTERIAN CHURCH. As a consequence of these disputes, the Defendant COMMUNITY CHURCH sought to negotiate a settlement of its property rights with the Plaintiffs and for this purpose proceeded by filing with the Plaintiff PRESBYTERY, on or about June 27, 1967, a request to negotiate a peaceful withdrawal and by thereafter processing its request through the established ecclesiastical authorities of the Presbyterian denomination, thereby exercising all of its administrative remedies. As a result thereof, the COMMUNITY CHURCH, was given the right to file a petition on this matter directly with the General Assembly of the denomination. This was done and on May 21, 1969 said petition was denied on the ground that it had been filed by a non-member body.

25. The application made by the Defendant COMMUNITY CHURCH to the Plaintiffs for negotiation for peaceful withdrawal was made by officers of the COMMUNITY CHURCH pursuant to authorization by the church membership on June 25, 1967.

26. During the time the Defendant's request to negotiate a withdrawal was being considered, the Plaintiff PRESBYTERY OF RIVERSIDE appointed the Plaintiff ADMINISTRATIVE COMMISSION to assume control of the real and personal property of the COMMUNITY CHURCH and to continue the work of Plaintiff PRESBYTERY in the City of Palm Springs. Defendant COMMUNITY CHURCH denied the ADMINISTRATIVE COMMISSION access to said property.

27. (a) In May, 1968, officers of said COMMUNITY CHURCH requested Plaintiffs to delay efforts to take over the local church property and to direct

the activities of the COMMUNITY CHURCH through Plaintiff's ADMINISTRATIVE COMMISSION pending Defendant's petition being considered by the denomination's General Assembly in May of 1969. This request was refused by the Plaintiffs.

(b) At the time of such request by Defendant COMMUNITY CHURCH, Plaintiffs were subject to an injunction issued by the Superior Court of Riverside County restraining Plaintiffs herein from in any way interfering with the activities of Defendant Church which injunction was to remain effective until sixty (60) days after determination by the General Assembly. This injunction was to expire by its terms on July 20, 1968 which was subsequent to Defendant' request mentioned in Finding 27(a) above.

28. On or about May 28, 1968, after a refusal to delay action referred to in Finding No. 27 above, the Session of the COMMUNITY CHURCH pursuant to an earlier vote by the membership, where a very substantial majority favored such action, voted to withdraw from affiliation with the Presbyterian denomination and to direct its officers to notify Plaintiff Presbytery of such action.

29. The Session of the COMMUNITY CHURCH on June 8, 1968, sent a letter to the Plaintiff Presbytery renouncing said Presbytery's jurisdiction over the Defendant COMMUNITY CHURCH. The Session also sent a representative to a meeting of the Presbytery on June 8, 1968 to deliver to that body a copy of a resolution adopted by the local church Session on May 28, 1968 relating to the COMMUNITY CHURCH withdrawal from the Presbyterian denomination.

30. Neither prior to the dispute which led to the withdrawal of the COMMUNITY CHURCH from the

Presbyterian denomination nor prior to the actual withdrawal, was any communication ever directed to representatives of said COMMUNITY CHURCH by the PRESBYTERY or by any other governing body of the Presbyterian Church giving notice that the denomination claimed ownership or a trust interest in the COMMUNITY CHURCH properties. The Defendant COMMUNITY CHURCH had no notice or knowledge that the PRESBYTERY and the PRESBYTERIAN CHURCH claimed an implied trust interest in the local church properties.

31. The Constitution of the UNITED PRESBYTERIAN CHURCH IN THE UNITED STATES OF AMERICA provides that corporations be formed by each of the judicatories for the purpose, among other things, of holding property owned by the judicatory. The Constitution further provides that an individual church shall not sell, mortgage, or otherwise encumber any of its real property, and shall not acquire real property subject to an encumbrance or condition without the written permission of the PRESBYTERY. Likewise, the Constitution provides that individual churches shall not lease real property without the written permission of the PRESBYTERY. Further, the Constitution provides that whenever a particular church is formally dissolved by the PRESBYTERY or has become extinct by reason of the dispersal of its members, the abandonment of its work, or other causes, such property as it may have, both real and personal, shall be held, used and applied for such uses, purposes and trusts as the PRESBYTERY may direct.

32. The Articles of Incorporation of the COMMUNITY CHURCH as originally drawn provided that the COMMUNITY CHURCH OF PALM SPRINGS

(PRESBYTERIAN) was an unincorporated association, existing and organized under and adhering to the doctrines and discipline of THE PRESBYTERIAN CHURCH IN THE UNITED STATES OF AMERICA. The Articles of Incorporation further provide that the corporation is at all times subject to and will adhere to the doctrines and discipline of THE PRESBYTERIAN CHURCH IN THE UNITED STATES OF AMERICA. The articles further provide that the admission, expulsion or suspension of members in the corporation shall be governed by the doctrines and discipline of THE PRESBYTERIAN CHURCH IN THE UNITED STATES OF AMERICA. Said PRESBYTERIAN CHURCH IN THE UNITED STATES OF AMERICA was the immediate predecessor in interest of THE UNITED PRESBYTERIAN CHURCH IN THE UNITED STATES OF AMERICA. On February 25, 1956, the articles were amended to provide that all property owned by the church was irrevocably dedicated to religious and/or charitable purposes, and upon liquidation the property would revert, transfer and inure to the benefit of THE UNITED PRESBYTERIAN CHURCH IN THE UNITED STATES OF AMERICA. The Bylaws of the corporation as originally established provided that they were subordinate to the Constitution of THE PRESBYTERIAN CHURCH IN THE UNITED STATES OF AMERICA. The Bylaws were amended in January of 1965 to have the word "United" inserted in the name of THE UNITED PRESBYTERIAN CHURCH IN THE UNITED STATES OF AMERICA wherever the same appeared in the records.

33. The COMMUNITY CHURCH appealed to the 180th GENERAL ASSEMBLY of the church and in an action dated May 21, 1968, the PERMANENT

JUDICIAL COMMISSION which is the judicial body of that judicatory, upheld the action of the lower judicatory. In its opinion the GENERAL ASSEMBLY stated that the local church had an absolute right to petition directly to the GENERAL ASSEMBLY for withdrawal.

34. The COMMUNITY CHURCH petitioned the 181st GENERAL ASSEMBLY of the church, and in an action taken on May 20, 1969, the Standing Committee on Bills and Overtures found that the petition was filed by an independent body which had renounced the jurisdiction of THE UNITED PRESBYTERIAN CHURCH IN THE UNITED STATES OF AMERICA, and therefore the GENERAL ASSEMBLY could not hear the petition. This committee is one of the several committees through which the GENERAL ASSEMBLY, the highest judicatory of the church, performs its functions.

35. The Constitution of THE UNITED PRESBYTERIAN CHURCH IN THE UNITED STATES OF AMERICA provides that several different congregations are collectively one church. It further provides that appeals may be carried from lower to higher judicatories, until they may be finally decided by the highest judicatory, the GENERAL ASSEMBLY, which, under the terms of the Constitution, is deemed to be the united voice of the whole church.

36. The Permanent Committee on Conservation of Property is a legislative branch of the GENERAL ASSEMBLY. In an action of that committee dated May 16, 1968, the 180th GENERAL ASSEMBLY adopted a report of the Permanent Committee on Conservation of Property. The report specifically refers to a controversy between the PRESBYTERY OF RIV-

ERSIDE involving the property of the COMMUNITY CHURCH OF PALM SPRINGS (PRESBYTERIAN). The report states that the actions taken by the PRESBYTERY were grounded in the long-standing adherence of THE UNITED PRESBYTERIAN CHURCH IN THE UNITED STATES OF AMERICA to the principle that title to all property of the local church is held in trust for the benefit of the whole denomination.

CONCLUSIONS OF LAW

1. Defendant and Cross-complainant COMMUNITY CHURCH OF PALM SPRINGS, a California Nonprofit Corporation, is, and at all times material to this litigation was, the owner of all real and personal property described in Finding of Fact No. 6 above including any monies, securities, bequests, and gifts of property which may be in the possession of or which have been made to said COMMUNITY CHURCH OF PALM SPRINGS since this litigation commenced.

2. None of the Plaintiffs have any right, title, estate, lien, claim to or interest in, of any nature, in any of the properties referred to in Conclusion No. 1 above or any part thereof.

3. Fair, just and equitable determination of this case requires the application of neutral principles of law and the formal title approach and therefore the court concludes that no implied trust is applicable herein, and that none of the Plaintiffs have any right, title or beneficial interest whatsoever in said real and personal property under any such theory.

4. Based upon the Findings of Fact set forth above, the Plaintiffs, and each of them, are estopped from

asserting any claim whatsoever to said real and personal property.

5. Legal title to all of the real and personal property described in Finding of Fact. No. 6 above is vested in the Defendant COMMUNITY CHURCH OF PALM SPRINGS, a California Non-profit Corporation.

6. Said corporation and all of its assets are properly in the control of its membership acting by and through its duly elected Board of Trustees.

7. Defendant is entitled to judgment for its costs of suit incurred herein.

8. Defendant COMMUNITY CHURCH OF PALM SPRINGS is entitled to a judgment of quiet title against the Plaintiffs, and each of them, to all of the real property and personal property described in Conclusion of Law No. 1 above.

Dated: April 21, 1977.

/s/ John Hews
JUDGE OF THE SUPERIOR COURT